

SheppardMullin

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/19/2020

June 15, 2020

VIA ECF

Hon. Analisa Torres, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Himelda Mendez v. Kate Spade LLC*
Case No. 1:19-cv-11757-AT

Dear Judge Torres:

We represent defendant Kate Spade LLC (“Defendant”) in the above-referenced action. We write, with Plaintiff’s consent, to respectfully request a stay of these proceedings pending the Second Circuit Court of Appeals’ review of rulings on motions to dismiss in nearly identical actions.

By way of background, within the last two months, courts in the Southern District of New York have granted motions to dismiss other cases involving substantially identical complaints (*i.e.*, complaints alleging that defendants’ gift cards are inaccessible under the Americans with Disabilities Act), including complaints brought by this same Plaintiff. *See Yovanny Dominguez v. Banana Republic, LLC*, U.S.D.C. S.D.N.Y. Case No. 1:19-cv-10171 (GHW); *Himelda Mendez v. Ann Taylor, Inc.*, U.S.D.C. S.D.N.Y. Case No. 1:19-cv-10625 (GHW). Plaintiffs in those cases exercised their right to appeal from those rulings, and the Second Circuit has recently ordered an expedited briefing schedule in certain of those cases, indicating some intention that the Second Circuit intends to address the same issues at the core of this proceeding. Although we understand that the plaintiffs/appellants in those cases intend to ask the Second Circuit to sever those appeals and withdraw the expedited briefing schedules, the Second Circuit’s intent to rule on these same issues is inevitable and possibly imminent.

As a result, Defendant seeks, with Plaintiff’s consent, a comprehensive stay of the proceedings in this action pending the Second Circuit’s rulings on the appeals. A stay would conserve judicial resources and permit this Court and the parties to proceed in this action at a future date with the benefit of guidance from the Court of Appeals.

Thank you for Your Honor’s consideration of this request

Respectfully submitted

The request for a stay is DENIED.

SO ORDERED.

Dated: June 19, 2020
New York, New York

/s/ Sean J. Kirby
Sean J. Kirby


ANALISA TORRES
United States District Judge